

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

RODNEY HAYES,

Petitioner,

v.

**CIVIL ACTION NO.: 3:14-CV-91
(GROH)**

WARDEN, F.C.I. GILMER,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed Report and Recommendation ("R&R"). Magistrate Judge Seibert issued his R&R on February 25, 2015. ECF 18. In the R&R, he recommends that this Court grant the Respondent's Motion to Dismiss or, in the Alternative, for Summary Judgment, [ECF 13], and that the Petitioner's 28 U.S.C. § 2241 Court-Approved Form Petition, [ECF 8], be denied and dismissed with prejudice.

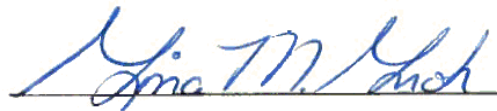
Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a

petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). Objections to Magistrate Judge Seibert's R&R were due within fourteen plus three days of the Petitioner being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted at the Federal Correctional Institution, Gilmer, on March 2, 2015. Therefore, after allowing for additional time to ensure personal receipt, the Court finds that the deadline for the Petitioner to submit objections to the R&R has passed. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Seibert's Report and Recommendation, [ECF 18], should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. Accordingly, the Court hereby **GRANTS** the Respondent's Motion to Dismiss or, in the Alternative, for Summary Judgment. ECF 13. The Court **DENIES** the Petitioner's 28 U.S.C. § 2241 Court-Approved Form Petition, [ECF 8], and **ORDERS** that it be **DISMISSED WITH PREJUDICE**. This matter is **ORDERED STRICKEN** from the active docket of this Court. The Clerk is **DIRECTED** to enter judgment for the Respondent. As the Petitioner is a federal prisoner seeking relief through a § 2241 petition, the Court makes no certificate of appealability determination in this matter.

The Clerk is directed to transmit copies of this Order to all counsel of record and *pro se* parties.

DATED: April 2, 2015


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE